



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,139	10/09/2003	Mark Baker	57690.010153	1357

7590 08/06/2004

Richard D. Harris
GREENBERG TRAURIG, P.C.
Ste. 2500
77 W. Wacker Dr.
Chicago, IL 60601

EXAMINER

VAN, QUANG T

ART UNIT PAPER NUMBER

3742

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/682,139	Applicant(s) BAKER, MARK	
	Examiner Quang T Van	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Claim Objections

1. Claim 10 is objected to because of the following informalities: "said collapsible **microwave** cooking container" recited in line 7 has no antecedent basis and it should be changed to "said collapsible cooking container" for consistency throughout the claims. Correction is required.
2. Claims 13-14 are objected to because of the following informalities: "said second first portion" recited in claim 13, line 2 has a typo error and should be changed to "said second side portion". Correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 5, and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by MacLean, IV (US 5,468,939). MacLean discloses a microwave cooking container for popping popcorn comprising a generally rectangular shaped paperboard blank folded along crease lines to form a bottom portion (12), a first side portion (14), a top portion (23), and a second side portion (16) wherein said top portion (23) and said first side portion (14) are adapted to be attached so as to form a cube having opposed,

Art Unit: 3742

open sides; and a first collapsible side (34) and a second collapsible side (34) each adapted to substantially cover one of said opposed, open sides of said cube when said collapsible microwave cooking container is in an expanded configuration; wherein each of said first collapsible side (34) and said second collapsible side (34) comprise a first generally rectangular shaped segment (34) laterally extending from said bottom portion (12) and having a first locking tab (48) and a second generally rectangular shaped segment (32) laterally extending from said top portion (23) and having a second locking tab (48) such that, when said collapsible microwave container is generally maintained in said expanded configuration as an exterior surface of said first locking tab (48) engages an interior surface of said second generally rectangular shaped segment (32) and an exterior surface of said second locking tab (48) engages an interior surface of said first generally rectangular shaped segment (34) and said top portion (23) and one of said first and second generally rectangular shaped segments (34, 32) is disposed within a slot formed in the other of said first and second generally rectangular shaped segments.

5. Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Langen (US 2003/0106899). Langen discloses, figure 23, a container for microwave popcorn comprising a generally rectangular shaped paperboard blank folded along crease lines to form a bottom portion (O), a first side portion (P), a top portion (M), and a second side portion (N) wherein said top portion (M) and said first side portion (P) are adapted to be attached so as to form a cube having opposed, open sides; and a first collapsible side (C, E) and a second collapsible side (D, F) each adapted to substantially cover one of

said opposed, open sides of said cube when said collapsible microwave cooking container is in an expanded condition; wherein each of said first collapsible side (C, E) and said second collapsible side (D, F) comprise an outwardly extendable tab (G, H) for use in removing said collapsible microwave cooking container from a microwave oven after heating.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacLean, IV (US 5,468,939) in view of Roccaforte (US 4,584,202). MacLean discloses substantially all features of the claimed invention except a charge pouch is attached to the bottom portion. Roccaforte discloses a charge pouch (58) is inserted to the bottom portion (figure 7, col. 3, lines 60-61). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in MacLean a charge pouch is inserted to the bottom portion as taught by Roccaforte in order to cook an inside pouched material inside the container. With regarded to the charge pouch being attached to the bottom portion. It would have been obvious to one having ordinary skill in the art to attach the charge pouch to the bottom portion. Doing so would provide the fixed correct position for cooking material inside the container.

Art Unit: 3742

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Engstrom et al (US 4,734,288) discloses a package for expandable food product.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang T Van whose telephone number is 703-306-9162. The examiner can normally be reached on 8:00Am 7:00Pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 703-305-5766. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



QV
August 4, 2004



Quang T Van
Primary Examiner
Art Unit 3742